

**TO:** Niloo Hodjati, Secretary-Treasurer, Committee of Adjustment & Consent Official

**FROM:** Greg Macdonald, Senior Planner – Development Review

**DATE:** August 27, 2020

**RE:** Planning Recommendation for  
Application D13VAR20.015H – ADM Agri-Industries  
Municipally known as 24 Ontario Street  
Town of Halton Hills (Georgetown)

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## **APPLICATION**

Requesting relief from Zoning By-law 2010-0050, as amended,

1. To permit the construction of a 19.3 m tall accessory silo, whereas only buildings and structures that existed on the effective date of the Zoning By-law are permitted.

To accommodate a proposed sugar silo.

## **Proposal and Background**

The Applicant is applying to the Committee of Adjustment to allow for the construction of a 19.3 m tall accessory sugar silo that would be attached to the existing industrial building (confectionary manufacturing use). The Applicant has indicated the need to replace existing sugar silos contained within the building with the proposed silo on the exterior of the building in order to improve the health and safety of the facility and its workers. The variance is to address zoning that only allows for existing buildings and structures.

## **POLICY CONTEXT**

### **Town of Halton Hills Official Plan**

The subject property is within the Urban Area of Georgetown and designated Medium Density Residential Area in the Town's Official Plan, which permits a range of medium density residential uses such as townhouses and apartments. Industrial uses are not permitted.

Section G5 of the Halton Hills Official Plan contains policies to address uses that do not conform to the designation and policies of the Official Plan. It is the intent of the Plan that such uses should gradually be phased out so that the lands use may change to a use in conformity with the Plan. However, Section G5 also contains policy direction that would allow for

additions and alterations to Legal Non-Conforming Uses without an Official Plan Amendment in cases where Council is not considering acquiring the property or where relocation of the use to another site is not practical. In this regard, the Town is not considering purchase of the lands, and the immediate relocation of an existing in-operation industrial facility is not readily practical.

The following policies are the evaluation criteria used to evaluate such a request:

- a) the size of the extension or enlargement of the established use is in proportion to the size of the use as it existed at the date of the enactment of the implementing Zoning By-law;
- b) the proposed extension is compatible with the character of the surrounding area in relation to noise, vibration, fumes, dust, smoke, odours, lighting and traffic generation;
- c) the proposed extension will not prejudice the long term intent of or the orderly development contemplated by the provisions and designations contained in this Plan;
- d) site planning and design will minimize the impact of the proposed extension on neighbouring conforming uses and includes, where appropriate, measures such as fencing, landscaping, and setbacks through the use of Site Plan Control; and,
- e) adequate water and wastewater servicing is available.

It should be noted that Section G5 of the Official Plan suggests that land use approvals for an extension should occur through a Zoning By-law Amendment.

### **Town of Halton Hills Zoning By-Law**

The subject property is zoned Development (D) Zone under Zoning By-law 2010-0050, as amended. This Zone only permits legally existing uses as of the effective date of this By-law. No zone standards (setbacks, etc.) apply as only existing building and structures are permitted.

As the existing building and use existed legally on the effective date of this By-law, both the confectionary manufacturing use and associated buildings are permitted on the subject lands.

### **COMMENTS**

#### **Internal Department and External Agency Comments**

This application was circulated for review and comment to Town departments and external agencies. No objections were received; relevant comments regarding the Minor Variance application are as follows:

#### **Planning**

The following provides an evaluation of the proposal in relation to the requested variance to permit the construction of a 19.3 m tall accessory silo, whereas only buildings and structures that existed on the effective date of the Zoning By-law are permitted.

Fundamentally, the evaluation of the Minor Variance is a product of the requirement that the Development (D) Zone only allows for existing uses. The intent of having the subject lands

identified as a Development (D) Zone is to promote their future use to be consistent with the planned medium density residential designation, pursuant to the Official Plan. It is not the intent of the Zoning By-law, nor the Official Plan, to allow existing uses not in conformity with the Official Plan to have major extensions that would further entrench the use and lessen the likelihood that the use of the property would eventually change to what may be a more compatible land use to the surrounding residential area.

However, the Official Plan recognizes that these non-conforming uses may be permitted within the Zoning By-law and that they may be “appropriate and practical to allow the replacement, extension or enlargement of non-conforming uses in order to avoid unnecessary hardship”. Evaluation criteria are contained within Section G5 of the Official Plan in order to evaluate such extensions.

- With regard to Criteria (a), staff is satisfied that the size of the extension is proportionate to the size of the existing building. The silo simply replaces existing silos within the building and does not contribute to new usable floor area. The silo only adds approximately 10 sq. m to the existing 24,000 sq. m facility.
- With regard to Criteria (b), staff is satisfied the silo would not result in nuisance impacts on surrounding lands. It is located on the opposite side of the building from the surrounding residential neighbourhood and doesn't contribute to increased impacts from loading, fumes, noise, etc.
- With regard to Criteria (c), as the extension is of minimal size and serves to replace existing silos internal to the building, staff is satisfied that the proposal does not prejudice the long term intent that the subject lands convert to a use permitted under the Official Plan.
- With regard to Criteria (d), based on the location of the silo on the opposite side of the building from any adjacent residential uses, and based on the type of addition (a silo used for passive storage), no Site Plan is requirement and no other changes to the site with regard to fencing, landscaping or berming would be necessary at this time.
- With regard to Criteria (e), adequate water and wastewater servicing is available.

Therefore, it is staff's opinion that the above noted evaluation criteria have been met. Based on the extremely small scale of the extension, it is also staff's opinion that a Minor Variance application can be deemed an appropriate planning tool to consider the extension and that a Zoning By-law Amendment would not be necessary.

#### Region of Halton:

##### *Regional Official Plan (2009)*

The subject lands are designated in the 2009 Regional Official Plan (ROP) as being Urban Area. Section 76 of the ROP establishes that the range of permitted uses and the creation of new lots within the Urban Area will be in accordance with the applicable Local Official Plans and Zoning By-laws. All development, however, shall be subject to the Regional Official Plan policies in effect. There are no conformity issues with the use being contemplated through this proposal, but there are technical requirements of the Regional Official Plan that apply to this development proposal.

Section 58(1) of the ROP states that uses are permitted as specified in each land use designation provided that the site is not considered hazardous to life or property due to conditions such as soil

contamination, unstable ground or soil, erosion or possible flooding. Further, section 147(17) of the ROP requires that prior to the Region or Local Municipality considering a development proposal, a process be undertaken to determine whether there is any potential contamination on the site. In 2006-2007, Regional staff worked closely with the landowner of the subject property at the time to address the existing contamination on the site, in order to facilitate a small addition to the facility through the Site Plan process. Regional staff are aware of the history relating to the contamination that has migrated on to the subject property and the ongoing groundwater monitoring being undertaken in this area, as directed by the Ministry of Environment, Conservation & Parks (MECP).

Regional staff have consulted with MECP staff regarding this development proposal and sought additional information from the applicant as a result of that consultation. Regional staff understand that construction/excavation activities will be conducted in a manner that will not impact the extent of existing contamination or monitoring infrastructure. To this end, the applicant has provided confirmation that the expected excavation required for the proposed development (0.6 metres) will not go deeper than the anticipated groundwater level on this site. Furthermore, the applicant has provided confirmation that excavation will take place at a safe distance from existing groundwater monitoring wells on site. If any groundwater monitoring wells are damaged during construction, Region and MECP staff will be notified and the damaged groundwater well will be replaced after construction/excavation activities have concluded.

For the former Site Plan process referenced above (file SPA06.032/H), consultants working on behalf of the landowner submitted an updated Soil and Ground Water Management Program as well as a Human Health Risk Assessment. Any site alteration required for the proposed development should be in accordance with the relevant direction of the Human Health Risk Assessment and best practices for excess soil management. It is also recommended that the applicant develop, and make readily available, a Health & Safety Plan to ensure those involved in the construction process and employees on site are appropriately protected. Regional staff are requesting that the applicant provide written confirmation to the Region of Halton that they are aware of the potential risks involved with the existing contamination on site as well as the Human Health Risk Assessment and that the proposed development will not be in conflict with that assessment. Regional staff would request that this be a condition supported by the Town of Halton Hills and the Committee of Adjustment.

#### *Source Water Protection*

The subject property is located within the jurisdiction of the CTC Source Protection Plan (SPP). The CTC SPP can be accessed online at: <http://www.ctcswp.ca/ctc-source-protection-plan/>. The property is located in the WHPA-E (VS=9), WHPA-Q with a moderate risk level, Significant Groundwater Recharge Area, and an Issue Contributing Area for chloride.

Based on the policies of the CTC SPP, a Risk Management Plan (RMP) is required to manage significant drinking water threats associated with the application of road salt, the handling and storage of road salt and the storage of snow. Regional staff have attended the subject property and are continuing to work with the applicant on establishing the RMP. At the time this letter was written, the RMP had not been finalized and the Section 59 Notice had not been issued by Halton Region.

Regional staff request that a condition be included in this minor variance decision that reflects the requirement of a RMP being executed and Section 59 Notice being issued prior to final approval.

## **Public Comments**

Two emails from area residents were received who did not have formal objections to the proposal but rather had questions. One resident's question was a suggestion that the applicant/owner should consider painting the words "sugar" on the silo as well as other decorative measures (i.e. Canada Flag). The suggestion was passed onto the applicants whom are amendable to the suggestion and will take it into consideration. The other was two questions. The first question was whether the silo would increase any odors emanating from the facility. Planning Department staff are currently endeavoring to receive an answer on this from the applicant/owner. The second question was whether the new silo would result in an increase to production at the facility with accompanying increases in truck traffic. The applicant/owner has indicated the silo is not to increase production but rather to improve operational efficiency and safety.

No other comments have been received from the public as of the date this report was prepared.

## **RECOMMENDATION**

It is the opinion of Planning staff that the application for Minor Variance meets the four tests of a Minor Variance as outlined in the *Planning Act*. The application:

- 1) meets the intent and purpose of the Town of Halton Hills Official Plan;
- 2) meets the intent and purpose of the Town of Halton Hills Zoning By-law;
- 3) is considered to be desirable for the appropriate development or use of the property; and,
- 4) is considered to be minor in nature.

Planning staff has no objection to the approval of this application, subject to the following conditions:

1. That the applicant provide written confirmation to the Region of Halton that they are aware of the risks involved with the existing contamination on site and that the proposed development will not be in conflict with the formerly established Human Health Risk Assessment for the subject property.
2. That the applicant establish a Risk Management Plan for the subject property to the satisfaction of the Region of Halton to address requirements of the provincial CTC Source Protection Plan.

Reviewed and Approved by,



**Jeff Markowiak, Director of Development Review**

**Notes**

Halton Hills Hydro

- Halton Hills Hydro must be contacted for an Electrical Service Layout if a new service or upgrade to an existing service is required; or metering changes. Location and method of servicing is at the sole discretion of Halton Hills Hydro.
- Any costs due to changes required of Halton Hills Hydro's distribution system (i.e. moving poles to accommodate lane ways, driveways and parking lots, etc.) will be borne by the applicant.